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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,384	09/26/2003	Masato Iwanaga	031201	2733
38834 7590 03/02/2007 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			EXAMINER CANTELMO, GREGG	
			ART UNIT 1745	PAPER NUMBER
			MAIL DATE 03/02/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/670,384

Applicant(s)

IWANAGA ET AL.

Examiner

Gregg Cantelmo

Art Unit

1745

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



Gregg Cantelmo  
Primary Examiner  
Art Unit: 1745

Continuation of 11. does NOT place the application in condition for allowance because: Applicant presents new arguments after final which require further consideration. In light of these arguments, the Examiner maintains that the combination of references renders the claimed invention obvious for at least the reasons set forth in the previous office action. Applicant asserts that the main objective of the present invention is to eliminate unnecessary actuation of the explosion-proof valve however the claimed product does not require any such step and, in itself, the arguments rely on an operational state of the product which is not necessarily a patentable feature of a claimed product. Furthermore, while applicant asserts that this condition cannot be attained by the combination of Takahashi and JP '611, applicant has failed to show any evidence to support their assertion. Applicant also asserts that while the additional references of JP '909, JP '229 and JP '398 describe improving cycle characteristics and discharge characteristics, that none of these references teach of the prevention of unnecessary actuation of the valve. As discussed above, the claimed product does not require any such step and, in itself, the arguments rely on an operational state of the product which is not necessarily a patentable feature of a claimed product. Furthermore, while applicant asserts that this condition cannot be attained by the combination of Takahashi and JP '611, applicant has failed to show any evidence to support their assertion. Applicant further compares data in the specification between what Applicant considers to be their invention compared to their comparative examples and applies this data to attempt to distinguish the claimed invention over the prior art rejections of record. However this comparison is not persuasive since it fails to show that the comparative examples and the prior art rejection teachings are identical. Since there is no evidence that they are identical, application of the comparative data in the instant application cannot be linearly applied to the prior art rejection of record. Applicant also presents untimely arguments to the rejection of Sunagawa which could have been reasonably presented Applicant's previous response. It should be readily apparent from the disclosure of Sunigawa that a significant range of positive electrode active materials including materials having a buld density of 3.3 g/cm3 or more were appreciated as being acceptable bulk densities for a cathode active material and thus would have been readily obvious bulk densities to one of ordinary skill in the art. Applicant's interpretation of Fig. 3 is a particularly narrow analysis of the full disclosure of the teachings of this prior art reference and it is maintained that the overall and entire disclosure of Sunigawa reasonably suggests cathode bulk densities of 3.3 g/cm2 or greater.



**GREGG CANTELMO**  
**PRIMARY EXAMINER**

28 FEB 2007